Munis Dist-II/52 (R)

1952. **File No.**

K

Legal Department

B **BRANCH** P.6(E)

Subject:— Rules under the Bombay District Municipal Act, 1908

File No. Munis Dist.II/52(R)

Gen. 194 e.

363-B

LEGAL DEPARTMENT.

The amendment proposed by the Department in rule 2(e) is not sufficient. Under rules 35 to 38 and 42 certain functions are entrusted to the Chairman of the special general meeting of the municipality and not to the President. Also certain functions are req required to be carried out at such meeting. It will therefore be necessary to add a suitable rule specifying the person who shall perform all these functions.

A revised draft is accordingly sent herewith in place of the Department's draft at page 13 ante.

Sd/- J.R. Dhurandhar.
3.3.
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 3510, dated the 4th March 1952.

V.M.D./2.7
40.

16/7

NOTIFICATION.

Local Self Government and Public Health Department,

Bombay Castle, March 1952.

Bombay District Municipal Act. 1901.

No. .- In exercise of the powers conferred by sub-section (1) of section 11 of the Bombay District Municipal Act, 1901 (Bom. III of 1901), the Government of Bombay is pleased to amend the Bombay District Municipal Election Rules, 1950 , as follows, namely:-

1. In rule 2 of the said rules, in clause (e), —

(a) after the words "Vice-President of a Municipality" the following proviso shall be inserted, namely:-

"Provided that when a Municipality is newly constituted under section 4 of the Act the term "President" shall mean the person appointed by the Collector to exercise the powers and perform the duties of the President under these rules:";

(b) in the existing proviso forthe words "Provided that" the words "Provided further that" shall be substituted.

2. After rule 42 of the said rules, the following rule shall be inserted, namely:-

"42A. Scrutiny and counting of votes and declaration of results when municipality is newly constituted. When a Municipality is newly constituted under section 4 of the Act, the provisions in rules 35 to 38 and 42 in so far as they relate to the convening of a special general meeting of the Municipality shall not apply and the powers to be exercised or duties to be performed under the said rules at or by such meeting or the Chairman of such meeting or the Municipality, as the case may be, shall be exercised or performed by the person appointed by the Collector in that behalf."

By order of the Governor of Bombay,

Secretary to Government.

V.M.D./2.7
40.

The power of Government under section 11 of the Bombay District Municipal Act, 1901 and section 10 of the Bombay Municipal Boroughs Act, 1925 of making rules consists in providing for the manner of holding elections of Councillors to be elected and of making rules generally for such elections. The powers under the said section of the respective Acts would not include however the power to impose a penalty for the breach of the rules, if any, made under the sections. No useful purpose will therefore be served by making rules which cannot be enforced. In view of these provisions the following remarks are made with reference to the proposals made by the L.S.G. & P.H.D. :

Proposal (1):- Rule 27 of the Bombay District Municipal Election Rules , 1950 or rule 27 of the Bombay Borough Municipalities Election Rules, 1950 already provides that the candidates and their agents shall not speak to or address any voter in the ante-room, but may address to the Presiding Officer objections to a voter on any one of the 3 grounds stated therein. This rule in effect prohibits canvassing inside the polling station but to be more accurate the work "ante-room" may be substituted by the words "polling station" in both the sets of rules.

Proposal (2):- A rule providing a penalty for disorderly conduct in or near the polling station would be rendered useless as there is no power in the relevant section of the Act to provide a penalty for disorderly conduct . In the absence of an express provision to that effect in the Act, such conduct would be punishible if it amounts to an offence under the ordinary law.

Proposal (3):- The remarks with respect to proposal (2) would apply to this proposal also.

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Proposal (4) :- Making a rule to enable the voters who have been admitted to the pàlling station before the closing hour to record their votes after such closing hour. This rule can be ~~x~~ made as it will fall under the power to provide for the manner of holding elections.

Proposal (5):- Making a rule for marking of indelible ink on the left fore-finger. This rule also can be made in view of what is stated with reference to proposal (4).

Proposal (6) :- To make a rule prohibiting entry of the public in the polling booth except authorized persons. There already exists a rule to that effect in rule 26 of the Bombay District Municipal Election Rules, 1950.

Sd/- J.B. Dhurandhar.
24.3

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 4420, dated the 24th March,1952.

V.M.D./2.7
4c.

LEGAL DEPARTMENT.

In place of the two draft notifications at page 45 ante, revised draft notifications are sent herewith.

2. Under section 12(1)(c) of the District Municipal Act and section 11(1)(c) of the Municipal Boroughs Act, persons are entitled to enter their names on the roll by virtue of business or taxation qualifications also. It would not therefore be proper to amend rule 4 as suggested by the Department. Amendment to rule 4 has not accordingly been included in the revised drafts.

Sd/- J.R. Dhurandhar.
24.3
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 4422, dated the 24th March 1952.

V.M.D./2.7
40.

NOTIFICATION.

Local Self Government and Public Health Department.
Bombay Castle, March 1952.

Bombay Municipal Boroughs Act, 1926.

No. .- In exercise of the powers conferred by sub-section (1) of section 10 of the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), the Government of Bombay is pleased to amend the Bombay Borough Municipalities Election Rules, 1950, as follows, namely:

In the said rules -

(1) in rule 5, 9

(a) for the words "regional language" the words "regional language or language" shall be substituted;

(b) the words "or in two regional languages of the District" shall be deleted;

(2) in sub-rule (2) of rule 12 for the words "regional language" the words "regional language or language" shall be substituted;

(3) in rule 21, after the words "identifying the voters" the words "Such officers shall not be persons in the service of the municipality" shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

V.M.D./2.7
4c.